

**LOUISIANA PUBLIC SERVICE COMMISSION**  
**MINUTES FROM DECEMBER 14, 2011**  
**OPEN SESSION**

***MINUTES OF DECEMBER 14, 2011 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN WINNFELD, LOUISIANA. PRESENT WERE CHAIRMAN JIMMY FIELD, VICE CHAIR CLYDE HOLLOWAY AND COMMISSIONERS FOSTER CAMPBELL, LAMBERT BOISSIERE AND ERIC SKRMETTA. ALSO PRESENT WAS EVE KAHAO GONZALEZ.***

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Open Session of December 14, 2011, convening at 10:24 A.M. and adjourning at 3:38 P.M., Winnfield Civic Center, 2000 S Jones Street, Winnfield, Louisiana, with the above-named members of the Commission and Secretary Eve Kahao Gonzalez.

Ex. 1            Announcements

Commissioner Campbell recognized Winnfield Mayor B.R. Audirsch, who welcomed everyone to Winnfield.

Commissioner Skrmetta directed Staff to investigate and report back at the earliest opportunity an information summary based on the LPSC Staff conducting a survey of all public utilities as to what type of credit check “pull” each utility conducts to research consumer credit backgrounds.

Commissioner Holloway reminded everyone that the February B&E will be held in Alexandria, Louisiana. The exact location has yet to be determined; however it will be somewhere downtown. There will be a reception the evening before at the Forestry Museum in Long Leaf, Louisiana.

Ex. 2            Discussion and possible votes on 2012 B&E dates.

On motion of Commissioner Holloway, seconded by Commissioner Boissiere, with Commissioners Campbell and Skrmetta concurring and Commissioner Field temporarily absent, the Commission voted to accept the proposed dates as read into the record.

Ex. 3            **U-32095** - Southwestern Electric Power Company (SWEPCO), ex parte. In re: Application for Certification of Contract for the Purchase of Long Term Renewable Resources.

**In re: Discussion and Possible Vote on Stipulated Agreement.**

On motion of Commissioner Campbell, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to accept the Staff Recommendation and 1) The Commission should find that the contract is prudent and serves the public convenience and necessity. 2) The Commission should find that SWEPCO has complied with its obligations under the Renewable Energy Pilot Program Implementation Plan (RFP component), the MBM Order and the 1983 General Order. 3) The REPA is a total company resource, consistent with all other SWEPCO PPAs, is allocable to the Louisiana jurisdiction using an appropriate allocation formula. Since the REPA is priced as an “energy-only” contract, the prudently-incurred costs would be eligible for Fuel Adjustment Clause (FAC) recovery, in accordance with Commission rules. 4) Notwithstanding Commission certification, SWEPCO retains a “continuing prudence” obligation to effectively manage and administer the REPA for the benefit of its customers over its entire 20-year term. 5) SWEPCO should provide Staff with a letter status report each calendar quarter on the status and performance of the REPA, both during project development and through at least the first year of project operation.

Ex. 4            **T-31292** - Alliance Cab Service, LLC, Individually and on behalf of these similarly situated vs Louisiana Public Service Commission. In re: Petition For Declaratory Relief And Quasi-Contract Damages Class Action.

**In re: Discussion and possible vote on ALJ Ruling on Motion for Summary Judgment.**

On motion of Commissioner Campbell, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the ALJ Recommendation and dismiss Docket T-31292 with prejudice.

Ex. 5           **T-30865** - Environmental Safety & Health Consulting Services, Inc. (Houma, Louisiana), ex parte. In re: Application to convert Contract Carrier Permit No. 1095-B to a common carrier certificate authorizing the transportation of all wastes statewide without limitation.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the ALJ Recommendation and grant the Carrier's application to convert its Contract Carrier Permit No. 1095-B to a common carrier certificate authorizing the transportation of all wastes statewide without limitation as follows: Applicant shall be allowed to transport all types of waste for disposal throughout Louisiana for an unlimited number of shippers pursuant to a filed tariff.

Ex. 6           **T-31316** - Renae G. Stanford, Inc. dba Stanford Truck Line (Iota, Louisiana), ex parte. In re: Application for a Common Carrier Certificate of non-hazardous oilfield waste, non-hazardous industrial solid waste and hazardous waste over irregular routes statewide.

On motion of Commissioner Holloway, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the ALJ Recommendation and grant the Carrier's application for a common carrier certificate authorizing the transportation of non-hazardous oilfield waste in vacuum trucks/trailers, statewide, as follows: 1) Applicant shall be allowed to transport non-hazardous oilfield waste (E&P waste) in vacuum trucks/trailers statewide, and 2) Applicant shall not file an application for additional or expanded authority for a period of two years from the date of the Commission's issuance of the common carrier certificate, as restricted, to the Applicant in this proceeding.

Ex. 7           **T-32033** - My Vac, LLC (Jennings, Louisiana), ex parte. In re: Application to increase tariff rates for LPSC 7013 & 7013-C.

**In Re: Discussion and possible vote on Stipulated Agreement Pursuant to Rule 57.**

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction and take this matter up pursuant to Rule 57.

On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and grant the LPSC recommended increase pursuant to the conditions read into the record.

Ex. 8           **T-32083** - Louisiana Public Service Commission vs. Tullier's Towing, LLC (Sorrento, Louisiana). In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, and General Order dated March 26, 2010 while operating under LPSC authority 6587, for exceeding state prescribed rates, allegedly having occurred on or about November 2, 2010, March 9, 2011, April 23, 2011 and June 21, 2011.

**In Re: Discussion and possible vote on Stipulated Agreement Pursuant to Rule 57.**

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction and take this matter up pursuant to Rule 57.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and adopt the agreement between Staff and the Carrier, wherein the Carrier agreed to plead guilty to the alleged violations, agreed to refund \$76.30 to Farm Bureau Ins. for violation dated November 2, 2010; to refund \$78.40 to Farm Bureau Ins. for violation dated March 9, 2010; to refund \$79.80 to Farm Bureau Ins. for violation dated April 23, 2011; and agreed that a refund of \$78.40 had already been made to Farm Bureau Ins. for violation dated June 21, 2011; and agreed to provide the LPSC with proof of all said refunds and furthermore, agreed to the imposition of a \$1,000.00 fine, with \$500.00 of the fine being suspended, together with a \$25.00 citation fee, for a total of \$525.00 conditioned on Tullier's Towing, LLC not committing any additional violations within the following 12 months, from the date of the agreement, specifically agreeing to cease charging recovery rates where such is inappropriate.

Ex. 9           **T-31896** - Louisiana Public Service Commission vs. Osage Environmental Inc. (Orange Grove, Texas). In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating Intrastate without LPSC authority on four counts; allegedly occurring on or about December 8, 2009 through December 10, 2009.

**In Re: Discussion and possible vote on Stipulated Agreement Pursuant to Rule 57**

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction and take this matter up pursuant to Rule 57.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and adopt the agreement between Staff and the Carrier, wherein the Carrier agreed to plead guilty, and agreed to pay a fine of \$2,000.00, per count, with \$1,000.00 per count of the fine, being suspended, conditioned on not committing any additional violations within 12 months of the date of the Order and further agreed to pay a citation fee of \$25.00 with the unsuspended portion of the fine and the citation fee, for a total of \$4,025.00, to be paid within 15 days of the issuance of the Order herein and whereby Staff agreed not to prosecute any additional violations which may have occurred prior to November 23, 2011, but have not yet been revealed through ongoing compliance audits.

Ex. 10           **T-32093** - Louisiana Public Service Commission vs. Reclamation Resources, Inc. (Oil City, Louisiana). In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by knowingly assisting Osage Environmental, Inc., in violating La. R.S. 45:164 & 166 (B), as prohibited by La. R.S. 45:171 (A).

**In Re: Discussion and possible vote on Stipulated Agreement Pursuant to Rule 57.**

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction and take this matter up pursuant to Rule 57.

On motion of Commissioner Campbell, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the agreement between Staff and the Carrier, wherein the Carrier agreed to plead guilty, and agreed to pay a fine of \$8,000.00, with \$4,000.00 of the fine, being suspended, conditioned on not committing any additional violations within 12 months of the date of the Order and further agreed to pay a citation fee of \$25.00. It was agreed that the unsuspended portion of the fine and the citation fee, for a total of \$4,025.00, would be paid within 15 days of the issuance of the Order herein.

Ex. 11           **T-32152** - Louisiana Public Service Commission vs. Macro, Incorporated (Broussard, Louisiana). In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating beyond the scope of authority granted under LPSC No. 7279 on one hundred thirty-five (135) counts; allegedly occurring on or about January 01, 2011 through February 28, 2011.

**In Re: Discussion and possible vote on Stipulated Agreement Pursuant to Rule 57.**

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction and take this matter up pursuant to Rule 57.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the agreement between Staff and the Carrier, wherein the Carrier agreed to plead guilty, and agreed to pay a fine of \$30,000.00, with \$15,000.00 of the fine, being suspended, conditioned on not committing any additional violations within 12 months of the date of the Stipulation and further agreed to pay a citation fee of \$25.00 with the unsuspended portion of the fine and the citation fee, for a total of \$15,025.00, to be paid within 15 days of the issuance of the Order herein and whereby Staff agreed not to prosecute any additional violations which may have occurred prior to December 01, 2011, but have not yet been revealed through ongoing compliance audits.

Ex. 12           **R-32141** - Louisiana Public Service Commission, ex parte. . In re: Discussion and possible vote at the December 14, 2011 Business and Executive Session, Proposed General Order regarding the

superseding of General Order dated October 11, 2010 and further supplementing General Order dated May 30, 2008 and General Order dated June 30, 1974, pertaining to Common and Contract Carriers of Passengers and Dispatch Taxicab Carriers under the jurisdiction of the LPSC, establishing rules, standards and registration for vehicles and their operators and further to adopt a Proposed Passengers Bill of Rights.

**In re: Discussion and possible vote on General Order.**

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, with Commissioners Campbell and Holloway concurring and Commissioner Field temporarily absent, the Commission voted to accept the Staff Recommendation and adopt the proposed general order with the following modifications: 1) the following language shall be added to Section I(A)(3): “This verification requirement as it applies to the Business Entity’s employees can be satisfied by the Business Entity’s filing of the Form E. For the purposes of this subsection an employee is hereby defined as an individual listed on the Business Entity’s Employers’ Quarterly Wage & Tax Report (LWC ES4) filed with the Louisiana Workforce Commission. Non-employees, independent contractors and contract drivers shall verify said coverage individually.” 2) The words “classic or” shall be removed from Section I(B)(3)(a)(i)(1) 3) The same amended language from Section I(B)(3)(a)(i)(1) shall be inserted into Section I(B)(3)(b)(i).

- Ex. 13      **U-32096 - Cleco Power LLC, ex parte..** In re: Application of Cleco Power LLC for Certificate of Public Convenience and Necessity for: (i) Authorization for Cleco Power LLC to enter into Proposal Power Purchase Agreements with Cleco Evangeline LLC and NRG Power Marketing, LLC; (ii) Authorization for Cleco Power LLC to Flow-Through in its Jurisdictional Rates, the Charges that it pays under the Power Purchase Agreements; and (iii) Expedited Treatment under the LPSC’s Streamlined Procedures for Limited Term Purchase Power Agreements.

**In re: Discussion and possible vote pursuant to Rule 57.**

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction and take this matter up pursuant to Rule 57.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the request for certification, pursuant to the conditions read into the record.

- Ex. 14      Louisiana Public Service Commission, ex parte; In re: Audit pursuant to Commission General Order U-27469-B of Entergy Gulf States Louisiana, L.L.C. and Entergy Louisiana, LLC’s avoided cost calculations and payments made to Qualifying Facilities (“QFs”) for the Audit Period of January 1, 2010 through December 31, 2011.

**In re: Discussion and Possible Vote to retain Henderson Ridge Consulting to assist Staff with 2010-2011 Audit.**

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to accept the Staff Recommendation and retain Henderson Ridge Consulting to assist Staff with the 2010-2011 audits noticed for an amount not to exceed \$48,400 with expenses not to exceed \$1,100 for a total budget of \$49,500 as specified in the proposal letter.

- Ex. 15      Request to issue RFP for outside consultant to assist Staff in the EGSL Fuel Audit for 2005-2009.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to authorize Staff to issue an RFP for an outside consultant to assist Staff in this matter.

- Ex. 16      Cyber Security for Utilities

**At the request of Commissioner Skrmetta.**

Commissioner Skrmetta directed Staff to open a rulemaking to determine what can be done to prevent or lessen the occurrence of utilities systems being hacked, including looking into

adopting SCADA (Supervisory Control and Data Acquisition) standards, which are used by the FBI in their cyber security division. He also asked the Staff to let the Commission know whether an RFP for outside consultant should be considered.

Ex. 17            Consideration of the Policy Issues and Potential Ratemaking Implications Associated with the Impact of Alternative Fuel Vehicle Usage on Gas and Electric Utility Operations and Investments.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, with Commissioners Boissiere and Holloway concurring and Commissioner Campbell temporarily absent, the Commission voted to accept Staff Recommendation and approve the requested budget extension of Acadian Consulting Group of \$ 10,000, with no expenses, for a total budget of \$49,280.

Ex. 18            1) Reports  
                     2) Resolutions  
                     3) Discussions

Ex. 19            **U-32153** - Cleco Power LLC., ex parte.. In re: Application of Cleco Power LLC for: (i) Authorization to Install Emissions Control Equipment at certain of its Generating Facilities in order to comply with the Federal Cross-State Air Pollution Rule; (ii) Authorization to Recover the Costs Associated with the Emissions Control Equipment in LPSC-Jurisdictional Rates.

**In re: Discussion and possible vote to retain Exeter Assc. to assist Staff in this matter.**

**At the request of Commissioner Skrmetta.**

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and retain Exeter Associates, Inc. to assist Staff with this matter for a total budget of \$32,200, including fees of \$29,700 and expenses of \$2,500.

Ex. 20            **U-31352** - Cleco Power, LLC, ex parte. In re: Petition for Declaratory Order Relating to Certain Claims within the Jurisdiction and Special Expertise of the Commission Raised in Class Action Lawsuit Filed by Opelousas Ratepayers against Cleco Power LLC.

**At the request of Commissioner Holloway.**

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the ALJ Recommendation and grant Cleco's Motion for Summary Judgment with the following declarations: 1) Cleco's ratepayers in the City of Opelousas have been served under applicable rates and policies approved by the Commission; and 2) Cleco's ratepayers in Opelousas have not been overcharged in connection with Commission rates or Commission ratemaking.

Ex. 21            Discussion and possible vote to hire J. Kennedy & Assoc., Inc. to assist Staff with the review of Dixie Electric Membership Corporation's Formula Rate Plan Filing due December 15, 2011 pursuant to Order No. U-30893.

**At the request of Commissioner Field.**

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and retain J. Kennedy and Associates to assist Staff with the 2011 test year review for a budget not to exceed \$24,700 with expenses not to exceed \$1,200 for a total budget of \$25,900.

Ex. 22            **U-32138** - Wastewater Treatment Systems & Operations, LLC (WTSO, LLC), ex parte. In re: Request for an increase in water and wastewater rates.

**In re: Discussion and Possible Vote on an Interim Rate increase**

**At the Request of Commissioner Holloway.**

On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to grant WTSO their requested interim rate increase subject to refund and applicable bonding requirement up to the May B&E, at which time should the rate case not be ready for a vote, the interim increase will be rescinded.

Ex. 23      **S-32161** - Density Utilities of Louisiana, LLC, ex parte. In re: Request for a Letter of Non Opposition to Incur Indebtedness

**In re: Discussion and Possible Vote on Letter of Non-Opposition.**

**At the request of Commissioner Field.**

Commissioner Skrmetta read a motion into the record that approved the letter of non-opposition subject to several conditions. Commissioner Field seconded this motion.

Commissioner Campbell made a substitute motion to pass the item to the January B&E; however this motion died for lack of a second.

Commissioner Boissiere made a substitute motion to approve the amended motion read into the record by Rob Rieger, but excluding the deadlines for Staff's review. Commissioner Holloway seconded the motion. A vote was called and this motion failed 3-2.

Commissioner Skrmetta's original motion was re-urged with the additional condition that Staff expedite all requests for disbursement pursuant to the bond issuance. Commissioner Field re-urged his second to this motion and after hearing no opposition, the motion passed.

Ex. 24      **U-32131** - Air Liquide Large Industries US, LP and Georgia Gulf Chemical and Vinyls, LLC, ex parte. In re: Petition for Jurisdictional Determination.

**At the request of Commissioner Boissiere.**

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the request for non-jurisdictional status based upon the conditions read into the record.

Ex. 25      **U-32166** - Entergy Gulf States Louisiana, L.L.C., ex parte. In re: Request for Approval of Sale of Class A Preferred Membership Interests in Entergy Holdings Company LLC pursuant to Act 55 of the Louisiana Regular Session of 2007 and the Financing Order issued in Docket No. U-29203 (Order No. U-29203-E, dated April 16, 2008).

**In re: Discussion and Possible Vote to approve EGSL's application pursuant to Rule 51 of the Commission's Rules of Practice and Procedure.**

**At the request of Commissioner Field.**

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to take this matter up pursuant to Rule 51.

On motion of Commissioner Holloway, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to accept Staff Recommendation and approve EGSL's application and adopt the proposed Order filed December 8, 2011.

Ex. 26      **R-31891** - Louisiana Public Service Commission, ex parte. In re: Review and Update of the Regulations and Guidelines of the Louisiana Public Service Commission Applicable to Customer Owned Coin Operated Telephone Service Providers and Alternate Operator Service Providers.

**In re: Request by the Commission to have Staff issue a Request for Proposals, less than \$50,000, for an expert consultant to assist Staff in the review in Docket No. R-31891. Responses should be analyzed and ready for consideration by the Commission at the January 2013 Business and Executive Session.**

**At the request of Commissioner Campbell.**

On motion of Commissioner Campbell, seconded by Commissioner Field, with Commissioner

Boissiere concurring and Commissioners Holloway and Skrmetta objecting, the Commission voted to authorize Staff to issue an RFP for outside consultant to assist Staff in this matter for under \$50,000.

Ex. 27      Discussion of possible follow-up actions by the Commission in light of last month's review of the State's failed Louisiana Broadband Alliance grant project

**At the request of Commissioner Campbell.**

Commissioner Campbell directed Staff to look into the bill that Ron Landry passed in 1998 giving the State of Louisiana rights for some of the utilities high speed internet cable, including where the cable the state has access to is located, whether or not it is being utilized; and how much there is available. Commissioner Skrmetta further asked Staff to develop a map of where these lines are located.

**MEETING ADJOURNED**

The next Business and Executive Session will be held January 25, 2011 at 9:00 a.m. in Baton Rouge, Louisiana.